

HOUSE RESOLUTION 55

By Johnson C

A RESOLUTION to adopt an Ethics Code for the Tennessee House of Representatives.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE ONE HUNDRED SEVENTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, that the following Ethics Code for the Tennessee House of Representatives is hereby adopted:

**ETHICS CODE
FOR THE
HOUSE OF REPRESENTATIVES
OF THE
TENNESSEE GENERAL ASSEMBLY**

Article I.

Findings and Purpose

The House of Representatives finds that it is essential in the conduct of the public business that representatives hold the respect and confidence of the people. Representatives should avoid conduct that even appears to violate the trust that the people have placed in them. To ensure and preserve public confidence, representatives should have the benefit of specific standards to guide their conduct. Article II, Section 11, of the Constitution of Tennessee grants to the House of Representatives the power to judge the qualifications of its members. It is the purpose of this code to establish standards of conduct for the representatives, to authorize the House Ethics Committee to consider alleged violations of this code, and to authorize the House Ethics Committee to render advisory opinions to the representatives. This code is in addition to and separate from standards of conduct that may be required under state or federal law.

Article II.

Ethical Standards

SECTION 1.

(a) In order to maintain the integrity and reputation of the House of Representatives, the following conduct is a violation of this Ethics Code:

(1) Actions that destroy a representative's independence of judgment as a legislator;

(2) Actions that are an abuse of the representative's official position, including, but not limited to, placing undue influence upon any state department, agency, court or governmental subdivision;

(3) Actions that are a personal interest in conflict with the proper discharge of the representative's duties in accordance with the provisions of Sections 2 and 3 of this Article;

(4) Actions that are a violation of a state or federal statute that are punished as a felony; and

(5) Any conviction of a state or federal felony or misdemeanor arising out of a representative's official capacity as a member of the general assembly.

(b) Actions that constitute a significant, material violation of Tennessee Code Annotated Title 2, Chapter 10, Title 3, or Title 8, Chapter 50, Part 5 may be a violation of this Ethics Code.

(c) It shall also be a violation of this Ethics Code if a representative:

(1) Initiates or files a complaint or provides information to the House Ethics Committee or the Tennessee Ethics Commission knowing that the material statements in the complaint or the information is false;

(2) Initiates or files a complaint with the House Ethics Committee or the Tennessee Ethics Commission in reckless disregard of the truth or falsity of the statements contained in the complaint; or

(3) Initiates or files one or more frivolous complaints with the House Ethics Committee or the Tennessee Ethics Commission.

SECTION 2. A representative has a personal interest in conflict with the proper discharge of the representative's duties if the representative has reason to believe or expect that the representative will derive a direct monetary gain or any other advantage or suffer a direct monetary loss by reason of the representative's official activity and such representative has not complied with the provisions of Section 3 of this Article requiring disclosure of such personal interest.

SECTION 3. While recognizing that members of the House serve as members of a citizen legislature which reflects a variety of professions and occupations and while also recognizing that some degree of interest in certain legislation is inevitable, a representative shall not vote on or influence legislation if the member has a personal interest which is in conflict with the proper discharge of the representative's duties, unless the representative discloses such information to the Tennessee Ethics Commission in accordance with the requirements of Tennessee Code Annotated, Title 8, Chapter 50, Part 5. Compliance with the provisions of Tennessee Code Annotated, Title 8, Chapter 50, Part 5, shall constitute compliance with this Article regarding disclosure of personal interests. Compliance with the provisions of Tennessee Code Annotated, Section 2-10-127(d), shall constitute compliance with this Article regarding disclosure of personal interests resulting from a spouse, sibling or child of the representative who is a registered lobbyist.

Article III.

Indictments and Convictions

A representative against whom a presentment or indictment for a felony offense has been returned by a state or federal grand jury shall step down from any office as the chair, vice-chair, secretary, or any other officer of the House, a legislative committee or any leadership position appointed by the Speaker or elected either by the House membership or by a party caucus. The House Rules shall determine the replacement for any committee officer or leader appointed by the Speaker who steps down. If such officer or leader is not convicted of the felony offense, such officer or leader may return to serve the remainder of the officer's or leader's term of office subject to the decision of the person or entity with authority to appoint or

elect them to the position. The membership or the appropriate caucus shall elect a representative to replace any leader elected by the membership or caucus who steps down, except as provided in the Rules of Order of the House of Representatives.

Article IV.

House Ethics Committee

SECTION 1.

(a) The House Ethics Committee shall be composed of seven (7) representatives of the majority party and seven (7) representatives of the minority party. All representatives shall be appointed by the Speaker. The Speaker shall appoint the chair of the committee from such representatives.

(b) The House Ethics Committee shall have authority to render, upon written request of any representative, advisory opinions as to whether the facts and circumstances of a particular case constitute or will constitute a violation or probable violation of this Ethics Code. The identity of any representative requesting an advisory opinion, or any person involved in such request, shall be kept in confidence. With respect to an issue addressed in an advisory opinion, any person who conforms that person's behavior to the requirements of the advisory opinion may rely upon the advisory opinion without threat of sanction by the House Ethics Committee or the House of Representatives. Advisory opinions of the committee shall be in writing and signed by eight (8) or more members of the committee.

(c)

(1) The committee shall have authority to receive and consider complaints, based upon personal or constructive knowledge, concerning alleged violations of this House Ethics Code from any representative including members of the committee; to initiate, upon vote of eight (8) or more members of the committee, complaints concerning alleged violations of this House Ethics Code; to investigate complaints; to refer complaints to the Tennessee Ethics Commission in accordance with Tennessee Code Annotated, Section 3-6-105(c);

to hold hearings; to make findings concerning complaints; and to recommend to the House of Representatives appropriate disciplinary action for a violation of this House Ethics Code.

(2) The committee may request the Office of Legal Services, the Comptroller of the Treasury, the Attorney General and Reporter, or any other state entity to assist the committee in investigating any complaint received or initiated by the committee.

(3) Except as provided in Section 2(c)(5)(C), all meetings of the House Ethics Committee shall be open to the public. All meetings of the House Ethics Committee held in a meeting room with permanent video technology shall be streamed live, and archived, on the web site of the Tennessee General Assembly.

(4) No complaint by a member of the House of Representatives alleging sexual harassment shall be received or considered by the committee. The chair, or committee staff, shall inform any member desiring to file such a complaint as to the appropriate procedure under the Tennessee General Assembly Sexual Harassment Policy. Sexual harassment by members of the House of Representatives is unacceptable behavior, contrary to the policy of the Tennessee General Assembly and discouraged in every form.

(d) The committee shall have authority to subpoena and compel the attendance of witnesses, administer oaths, take testimony, and require and compel the production of any documents or other items of evidence relative to any matter under investigation, and to issue show cause orders and attachments of the body. In accordance with the provisions of Tennessee Code Annotated, Title, 3, Chapter 3, the House Ethics Committee shall have all the powers granted to committees of this House.

SECTION 2.

(a) Complaints shall be in writing, signed by the representative or the member of the committee making the complaint, stating the specific ethical standard under Article II, Section 1 of this code or specific statute alleged to have been violated and all available

facts, under oath or affirmation, based on personal or constructive knowledge, which oath or affirmation shall be taken personally before the chair or any member of the House Ethics Committee.

(b) Complaints initiated by the House Ethics Committee shall be reduced to a written complaint by the Chair of the House Ethics Committee, and need not be based on personal knowledge. Any person who believes a violation of this Ethics Code has occurred is encouraged to present such information to any member of the House Ethics Committee who may then determine to file a complaint under this Ethics Code.

(c)

(1) Prior to commencing any action based upon a complaint filed with the committee, the chair shall direct committee staff to examine the complaint to determine procedural compliance with the provisions of this code and whether it states a claim that can be properly heard by the Ethics committee. A complaint not properly received or filed with the committee shall be dismissed without prejudice. Committee staff shall inform any representative desiring to file such a complaint as to the appropriate procedure under this code for filing such a complaint. Complaints merely reciting, or referencing, newspaper or other media accounts of events or occurrences are not sufficient to file a complaint under this code; any complaint based partially on newspaper or other media accounts of events or occurrences should include at least one independent source in addition to such accounts.

(2) Prior to commencing any investigation based upon a complaint filed with, or initiated, by the committee, the committee shall meet and it shall require a vote of eight (8) or more members of the committee to proceed with a complaint and to define the nature and scope of the committee's inquiry.

(3) If, after an initial investigation, eight (8) or more members of the committee determine that there is reason to believe that a violation of the Ethics Code more probably than not occurred, a copy of the complaint shall be served

upon the alleged violator along with a statement of the nature and the scope of the committee's inquiry.

(4) The representative shall have twenty (20) days after service thereof to respond in writing to the complaint, and the chair of the committee, with approval of ten (10) or more members of the committee, may extend the time to respond upon reasonable request.

(5)

(A) The committee shall convene within twenty (20) days of receiving the response from the alleged violator or, if no response is received, the committee shall convene not later than forty-five (45) days after service of the complaint upon the alleged violator. At such time, if eight (8) or more members of the committee conclude that more probably than not a violation of the House Ethics Code has occurred, the committee shall set a time and place for a hearing. The complainant and the alleged violator shall be given reasonable notice of the time and place for the hearing. The committee shall provide an opportunity for the complainant and the alleged violator to be heard at the hearing. The alleged violator shall have the right to be represented by counsel and to provide evidence on the alleged violator's behalf, to confront and to cross examine witnesses and to have copies of all documents produced as evidence against them in a reasonable time prior to the hearing. The complainant and the alleged violator may request the committee to subpoena witnesses and require the production of documents or other items of evidence relevant to the proceedings, and to otherwise provide discovery of relevant evidence. Such request must be made at least ten (10) days prior to the hearing date. If a request to issue a subpoena is granted by eight (8) or more members of the committee, such subpoena shall be issued in accordance with Tennessee Code Annotated, Title 3, Chapter 3.

(B) Notwithstanding any provision of this code to the contrary, the alleged violator may waive the hearing on the complaint and submit the matter directly to the judgment of the committee. Any such waiver shall be in writing and include a statement in response to the complaint; provided that such waiver may be included in the response provided pursuant to Section 2(c)(4). However, the committee, in the committee's sole discretion, may determine to hold a hearing on the complaint irrespective of waiver of the hearing by the alleged violator.

(C) All witnesses shall testify under oath and the hearing shall be open to the public; provided, however, that the committee may close all or part of the proceedings on unanimous vote. The committee shall not be bound by the strict rules of evidence, but the committee's findings shall be based upon competent and substantial evidence. All testimony and other evidence taken at the hearing shall be recorded by Library and Archives and a copy of such recording shall be maintained by Library and Archives.

SECTION 3. The committee may take the following actions on any complaint:

(1) At any time, the committee may dismiss a complaint if eight (8) or more members of the committee find that no violation has occurred, or that no punishment or censure is warranted.

(2) After a hearing, or waiver of a hearing, as provided in Section 2, if eight (8) or more members of the committee determine that a violation has been committed, the committee shall make a report of its findings and recommendations to the House of Representatives. Such report shall recommend appropriate disciplinary action against the representative committing the violation, if any. A decision of the committee finding that a violation has been committed shall be in writing and signed by eight (8) or more members of the committee.

(3) At any time, if the committee deadlocks on both a motion to proceed on a complaint and a motion to dismiss a complaint, the chair shall recess the committee and

at the next meeting of the committee if no motion is made on the complaint or if no motion prevails on the complaint or if no motion to continue the proceedings on the complaint to a fixed date prevails, the complaint shall be deemed dismissed and no further action on the complaint shall be considered except as provided in subdivision (4) of this section.

(4) Once acted upon, or dismissed pursuant to this section, no complaint alleging the same, or substantially the same, conduct by the same member during the same episode shall be received and considered by the committee unless initiated by the committee.

(5) At any time, if the committee finds that the circumstances warrant, the committee may disclose any documentation, evidence, or findings related to the matter to the Attorney General, the Tennessee Bureau of Investigation, any District Attorney General, or any other governmental agency or body or professional organization for possible action.

SECTION 4. No member of the committee shall participate in any matter in which such member is accused or in any matter in which such member is determined by ten (10) or more members of the committee to be so involved in the matter as to lack independent judgment. In either case, such member shall be recused as provided in this section. The Speaker shall appoint a representative to replace any member so recused until the proceedings involving the recused member have been concluded. The representative so appointed shall be from the same party as the member replaced. If the recused member is found not to have violated the House Ethics Code by the House Ethics Committee or the House of Representatives, such member shall return to serve on the committee for the remainder of such member's term and the representative appointed to replace the recused member shall cease to be a member of the committee.

SECTION 5. Unless specifically provided otherwise in this Ethics Code, the Rules of Order of the House of Representatives shall apply. If any question shall arise which is not provided for in this Ethics Code or in the Rules of Order of the House of Representatives, *Mason's Manual of Legislative Procedure* shall govern.